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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/565,074

03/28/2006

Jean Ridelle-Berger

0502-1044

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YOUNG & THOMPSON

209 Madison Street

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EXAMINER

SORKIN, DAVID L

ART UNIT

PAPER NUMBER

1797

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/565,074	<b>Applicant(s)</b> RIDELLE-BERGER, JEAN	
	<b>Examiner</b> DAVID L. SORKIN	<b>Art Unit</b> 1797	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 June 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Independent claim 1 is rendered indefinite by the phrase “notably made up of”, because it is unclear if the elements that this phrase introduces are required or optional. Claim 11 is further rendered indefinite by a further recitation of “notably”.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3, 8 and 10-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Rubsch (US 690,375). Regarding claim 1, Rubsch discloses a mixer that includes a silo (E) having a central working area, means (F,H) capable of lifting and releasing, and means (C) capable of bringing material from an upper portion to a lower central portion of the silo. Regarding claim 2, the silo has a cylindrical shape (see drawing) and the working area has a coaxial cylindrical shape, the lifting means consists

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of a vertical shaft (H) which coincides with the axis of the silo, which performs a movement of rotation and which is provided with at least one blade (F) which has a radius defining the working area and an angle of incidence relative to a plane of a cross section of the silo. Claim 3 discusses an intended use. Regarding claim 8, the silo has a frustro-conical shaped bottom (C). Regarding claim 10, the silo includes loading means (G,N) through its upper portion. Regarding claims 11 and 12, the silo includes loading/unloading means (O,P) at its lower portion. Regarding claims 13 and 14, the silo is provided with heat insulation means (A) and heating means (D). Regarding claim 15, the silo includes means (O,P) for introducing and/or for extracting.

5. Claims 1-3, 8 and 10-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Wymonde (US 690,375). Regarding claim 1, Wymonde discloses a mixer that includes a silo (10) having a central working area, means (17,22) capable of lifting and releasing, and means (11) capable of bringing material from an upper portion to a lower central portion of the silo. Regarding claim 2, the silo has a cylindrical shape (see drawing) and the working area has a coaxial cylindrical shape, the lifting means consists of a vertical shaft (17) which coincides with the axis of the silo, which performs a movement of rotation and which is provided with at least one blade (22) which has a radius defining the working area and an angle of incidence relative to a plane of a cross section of the silo. Claim 3 discusses an intended use. Regarding claim 8, the silo has a frustro-conical shaped bottom (11). Regarding claim 10, the silo includes loading means (G,N) through its upper portion. Regarding claims 11 and 12, the silo includes loading/unloading means (O,P) at its lower portion. Regarding claims 13 and 14, the

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silo is provided with heat insulation means (A) and heating means (D). Regarding claim 15, the silo includes means (O,P) for introducing and/or for extracting.

6. Claims 1-3 and 8-13 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Muller (US 4,515,483). Regarding claim 1, Muller discloses a mixer that includes a silo (1) having a central working area, means (2,3) capable of lifting and releasing, and means (4 and/or a the frustroconical portion of the vessel) capable of bringing material from an upper portion to a lower central portion of the silo. Regarding claim 2, the silo has a cylindrical shape (see drawing) and the working area has a coaxial cylindrical shape, the lifting means consists of a vertical shaft (2) which coincides with the axis of the silo, which performs a movement of rotation and which is provided with at least one blade (3) which has a radius defining the working area and an angle of incidence relative to a plane of a cross section of the silo. Claim 3 discusses an intended use. Regarding claim 8, the silo has a frustro-conical shaped bottom (see Figs. 1 and 3). Regarding claim 9, scraping components (4) are firmly attached to the rotary shaft which are applied onto the internal wall of the base of the silo. Regarding claim 10, the silo includes loading means through its upper portion (see Fig. 1). Regarding claims 11 and 12, the silo includes loading/unloading means at its lower portion (see Fig. 1). Regarding claim 13, the silo is provided with heating means (D). Regarding claim 15, the silo includes means for introducing and/or for extracting (see Fig. 1).

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 4, 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rubsch (US 690,375). While the numerical values of these claims are not expressly disclosed, see *In re Rose*, 220 F.2d 459, 105 USPQ 237 (CCPA 1955) and *Gardner v. TEC Systems, Inc.*, 725 F.2d 1338, 220 USPQ 777 (Fed. Cir. 1984) regarding the obviousness of selecting size and relative dimensions.

9. Claims 4, 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wymonde (US 690,375). While the numerical values of these claims are not expressly disclosed, see *In re Rose*, 220 F.2d 459, 105 USPQ 237 (CCPA 1955) and *Gardner v. TEC Systems, Inc.*, 725 F.2d 1338, 220 USPQ 777 (Fed. Cir. 1984) regarding the obviousness of selecting size and relative dimensions.

10. Claims 4-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Muller (US 4,515,483). While the numerical values of claims 4, 6 and 7 are not expressly disclosed, see *In re Rose*, 220 F.2d 459, 105 USPQ 237 (CCPA 1955) and *Gardner v. TEC Systems, Inc.*, 725 F.2d 1338, 220 USPQ 777 (Fed. Cir. 1984) regarding the obviousness of selecting size and relative dimensions. Regarding claim 5, Muller suggests making blade angle adjustable (see abstract).

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID L. SORKIN whose telephone number is (571)272-1148. The examiner can normally be reached on Mon.-Fri. 7:30AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Walter D. Griffin can be reached on 571-272-1447. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/DAVID L. SORKIN/  
Primary Examiner, Art Unit 1797